

2432.908 Contract clauses.

(a) The Contracting Officer shall insert a clause substantially the same as provided at 2452.232-70, Payment Schedule and Invoice Submission (Fixed-Price), in all fixed-price solicitations and contracts. The clause with its Alternate I may be used for solicitations and contracts issued by the Administrative Service Centers.

(b) The Contracting Officer shall insert a clause substantially the same as provided at 2452.232-71, Voucher Submission (Cost-Reimbursement), in all cost-reimbursement solicitations and contracts when vouchers are to be sent directly to the paying office. The clause with its Alternate I may be used for solicitations and contracts issued by the Administrative Service Centers.

[60 FR 46157, Sept. 5, 1995]

PART 2433—PROTESTS, DISPUTES, AND APPEALS

Sec.

2433.000 Scope of part.

Subpart 2433.1—Protests

2433.101-70 Definitions.

2433.102 General.

2433.102-70 Responsibility.

2433.103 Protests to the agency.

2433.103-70 Agency decision.

2433.104 Protests to GAO.

2433.105 Protests to GSBICA.

AUTHORITY: 31 U.S.C. 3551-3556; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

SOURCE: 50 FR 46578, Nov. 8, 1985, unless otherwise noted.

2433.000 Scope of part.

This part identifies the responsible agents and sets forth procedural requirements for handling protests.

[51 FR 40333, Nov. 6, 1986]

Subpart 2433.1—Protests

2433.101-70 Definitions.

Working day, as used in this part, means a working day of the Agencies of the Federal Government, excluding Saturdays, Sundays, and Federal holidays, as specified in 5 U.S.C. 6103.

2433.102 General.

2433.102-70 Responsibility.

The Office of General Counsel has responsibility for handling matters relating to protests filed with the General Accounting Office (GAO) or the General Services Board of Contract Appeals (GSBCA) against award of contracts by the Department. All written communications from the Department to the GAO or the GSBCA shall be by the Office of General Counsel. The Contracting Officer has responsibility for furnishing the Office of General Counsel with all information relating to a protest.

2433.103 Protests to the agency.

(a)(2) When the Contracting Officer makes a determination to award a contract notwithstanding a protest, as authorized by FAR 33.103(a)(2), that determination shall be approved by the HCA before award, after consultation with the Office of General Counsel.

(a)(4) Protests received after award that are filed only with the Department shall be decided promptly by the Contracting Officer after consultation with appropriate officials, including the program office and the Office of General Counsel.

[57 FR 59790, Dec. 15, 1992]

2433.103-70 Agency decision.

The Contracting Officer shall issue, in writing, his or her final decision on a protest within 20 working days from the date of receipt of the protest by the Department. If it is determined that it is desirable to solicit the views of GAO, the time for rendering a decision shall be 10 working days after the Department's receipt of GAO's views, but not later than 30 working days after the Department receives the protest.

[50 FR 46578, Nov. 8, 1985. Redesignated at 57 FR 59790, Dec. 15, 1992]

2433.104 Protests to GAO.

(a)(1) *General*. When advised by GAO of the receipt of a protest, the Office of General Counsel shall immediately inform the contracting activity. The Contracting Officer shall notify the Office of General Counsel upon receipt of

the copy of the protest from the protestor.

(2) Upon receipt by the Department of a written request for a formal report relating to a protest, the Office of General Counsel, with appropriate assistance from the Contracting Officer, shall prepare and file the report in accordance with GAO requirements at 4 CFR part 21.

(c) *Protests after award.* Protests received after award shall be treated in the same manner as those filed with GAO before award in accordance with paragraphs (a)(1) and (a)(2) of this section.

(d) *Findings and notice.* When the Contracting Officer makes a determination to award a contract notwithstanding a protest as authorized by FAR 33.104(b)(1)(i-ii), or to continue contractor performance as authorized by FAR 33.104(c)(2), that determination of the intent to make an award or to continue contract performance shall be approved by the HCA after consultation with the Office of General Counsel.

(g) *Notice to GAO.* If the HCA proposes not to comply with a GAO recommendation concerning the resolution of a protest of a procurement award, prior to reporting to the Comptroller General concerning that deci-

sion, the HCA shall obtain the concurrence of the Office of General Counsel and the Senior Procurement Executive.

[50 FR 46578, Nov. 8, 1985, as amended at 51 FR 40333, Nov. 6, 1986; 57 FR 59790, Dec. 15, 1992]

2433.105 Protests to GSBCA.

(d)(2) The Determination and Findings (D&F) establishing the circumstances for not suspending the Department's procurement authority shall be executed by the Assistant Secretary for Administration.

[51 FR 40333, Nov. 6, 1986]

PART 2434—MAJOR SYSTEM ACQUISITIONS

AUTHORITY: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2434.003 Responsibilities.

(a) The Senior Procurement Executive is responsible for establishing written procedures for implementation of A-109. Such procedures have been set out in internal Departmental directives.

[53 FR 46537, Nov. 17, 1988]